

Appln. No. 10/705,709

Attorney Docket No. 10842-024

II. Remarks

Claims 1-22 remain pending in the present application. Further review and examination of this application in view of the following remarks is hereir respectfully requested.

Allowable Subject Matter

The Applicant gratefully acknowledges indication, by the Examiner, of allowable subject matter in claims 1-12 and 18-22.

Rejections Under 35 U.S.C. §102(b)

Claim 13 is rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 2,949,946 issued to Johnson (Johnson). The Applicant asserts that Johnson does not teach each and every element of the invention as described in claim 13. Specifically, Johnson does not teach "A cutting bit comprising a generally rectangular elongated body having an upper end including a cutting surface, a lower end, and a lower planar tapered portion obliquely inclined to face laterally and upwardly".

While Figure 9 of Johnson does illustrate a cutting bit having an oblique surface, the oblique surface of Johnson faces laterally and downwardly. The language of claim 13 of the present application clearly requires that the oblique surface face laterally and upwardly.

The difference is significant. Any pressure against the oblique surface of the cutting bit of the present application results in a downward force that acts to keep the cutting bit held within the tool holder. On the contrary, any pressure against the oblique surface 17 of Johnson will result in an upward force that will act to push the

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cutting bit 12 out of the tool holder 10. The cutting bit 12 of Johnson would be pushed out of the slot 11A except for the serrations 16, 18 formed on the sides of the cutting bit 12 and the wall of the holder 10.

Therefore, Applicant asserts that Johnson does not teach each and every element of the invention as described in claim 13. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw these rejections under 35 U.S.C. §102(b).

Rejections Under 35 U.S.C. §103(a)

Claims 14-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson. In light of the comments made above, the Applicant asserts that independent claim 13 is allowable, and that claims 14-17 are allowable as depending, either directly or indirectly, from allowable independent claim 13. Accordingly, Applicant respectfully request that the Examiner reconsider and withdraw this rejection under 35 U.S.C. §103(a).

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Conclusion

Applicant asserts that pending Claims 1-22 are patentable. Applicant respectfully requests the Examiner grant allowance of these claims. The Examiner is invited to contact the undersigned attorneys for Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

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